

Subpart G—Limitation, Suspension, or Termination of Lender or Third-party Servicer Eligibility and Disqualification of Lenders and Schools

§ 682.700 Purpose and scope.

(a) This subpart governs the limitation, suspension, or termination by the Secretary of the eligibility of an otherwise eligible lender to participate in the FFEL programs or the eligibility of a third-party servicer to enter into a contract with an eligible lender to administer any aspect of the lender's FFEL programs. The regulations in this subpart apply to a lender or third-party servicer that violates any statutory provision governing the FFEL programs or any regulations, special arrangements, agreements, or limitations entered into under the authority of statutes applicable to Title IV of the HEA prescribed under the FFEL programs. These regulations apply to lenders that participate only in a guaranty agency program, lenders that participate in the FFEL programs, and third-party servicers that administer aspects of a lender's FFELP portfolio. These regulations also govern the Secretary's disqualification of a lender or school from participation in the FFEL programs under section 432(h)(2) and (h)(3) of the Act.

(b) This subpart does not apply—

(1)(i) To a determination that an organization fails to meet the definition of "eligible lender" in section 435(d)(1) of the Act or the definition of "lender" in § 682.200, for any reason other than a violation of the prohibitions in section 435(d)(5) of the Act; or

(ii) To a determination that an organization fails to meet the standards in § 682.416;

(2) To a school's loss of lending eligibility under § 682.608; or

(3) To an administrative action by the Department of Education based on any alleged violation of—

(i) The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act), which is governed by 34 CFR part 99;

(ii) Title VI of the Civil Rights Act of 1964, which is governed by 34 CFR parts 100 and 101;

(iii) Section 504 of the Rehabilitation Act of 1973 (relating to discrimination on the basis of handicap), which is governed by 34 CFR part 104; or

(iv) Title IX of the Education Amendments of 1972 (relating to sex discrimination), which is governed by 34 CFR part 106.

(c) This subpart does not supplant any rights or remedies that the Secretary may have against participating lenders or schools under other authorities.

(Authority: 20 U.S.C. 1080, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 22456, Apr. 29, 1994]

§ 682.701 Definitions of terms used in this subpart.

The following definitions apply to terms used in this subpart:

Designated Departmental Official: An official of the Department of Education to whom the Secretary has delegated the responsibility for initiating and pursuing disqualification or limitation, suspension, or termination proceedings.

Disqualification: The removal of a lender's or school's eligibility for an indefinite period of time by the Secretary on review of limitation, suspension, or termination action taken against the lender or school by a guaranty agency.

Limitation. The continuation of a lender's or third-party servicer's eligibility subject to compliance with special conditions established by agreement with the Secretary or a guaranty agency, as applicable, or imposed as the result of a limitation or termination proceeding.

Suspension. The removal of a lender's eligibility, or a third-party servicer's eligibility to contract with a lender or guaranty agency, for a specified period of time or until the lender or servicer fulfills certain requirements.

Termination. (1) The removal of a lender's eligibility for an indefinite period of time—

(i) By a guaranty agency; or

(ii) By the Secretary, based on an action taken by the Secretary, or a designated Departmental official under § 682.706; or

(2) The removal of a third-party servicer's eligibility to contract with a

lender or guaranty agency for an indefinite period of time by the Secretary based on an action taken by the Secretary, or a designated Departmental official under § 682.706.

(Authority: 20 U.S.C. 1080, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 22457, Apr. 29, 1994]

§ 682.702 Effect on participation.

(a) Limitation, suspension, or termination proceedings by the Secretary do not affect a lender's responsibilities or rights to benefits and claim payments that are based on the lender's prior participation in the program, except as provided in paragraph (d) of this section and in § 682.709.

(b) A limitation imposes on a lender—

(1) A limit on the number or total amount of loans that a lender may make, purchase, or hold under the FFEL programs;

(2) A limit on the number or total amount of loans a lender may make to, or on behalf of, students at a particular school under the FFEL programs; or

(3) Other reasonable requirements or conditions, including those described in § 682.709.

(c) A limitation imposes on a third-party servicer—

(1) A limit on the number of loans or accounts or total amount of loans that the servicer may service;

(2) A limit on the number of loans or accounts or total amount of loans that the servicer is administering under its contract with a lender or guaranty agency; or

(3) Other reasonable requirements or conditions, including those described in § 682.709.

(d) After the date the termination of a lender's eligibility becomes effective, the Secretary does not guarantee new loans made by that lender or pay interest benefits, special allowance, or reinsurance on new loans guaranteed by a guaranty agency after that date. The Secretary may also prohibit the lender from making further disbursements on a loan for which a guarantee commitment has already been issued.

(Authority: 20 U.S.C. 1080, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 22457, Apr. 29, 1994]

§ 682.703 Informal compliance procedure.

(a) The Secretary may use the informal compliance procedure in paragraph (b) of this section if the Secretary receives a complaint or other reliable information indicating that a lender or third-party servicer may be in violation of applicable laws, regulations, special arrangements, agreements, or limitations entered into under the authority of statutes applicable to Title IV of the HEA.

(b) Under the informal compliance procedure, the Secretary gives the lender or servicer a reasonable opportunity to—

(1) Respond to the complaint or information; and

(2) Show that the violation has been corrected or submit an acceptable plan for correcting the violation and preventing its recurrence.

(c) The Secretary does not delay limitation, suspension, or termination procedures during the informal compliance procedure if—

(1) The delay would harm the FFEL programs; or

(2) The informal compliance procedure will not result in correction of the alleged violation.

(Authority: 20 U.S.C. 1080, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 22457, Apr. 29, 1994]

§ 682.704 Emergency action.

(a) The Secretary, or a designated Departmental official, may take emergency action to stop the issuance of guarantee commitments by the Secretary and guarantee agencies and to withhold payment of interest benefits and special allowance to a lender if the Secretary—

(1) Receives reliable information that the lender or a third-party servicer with which the lender contracts is in violation of applicable laws, regulations, special arrangements, agreements, or limitations entered into under the authority of statutes applicable to Title IV of the HEA pertaining to the lender's portfolio of loans;